

REPORT OF THE AUDITOR-GENERAL ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND – NYARIBARI CHACHE CONSTITUENCY FOR THE YEAR ENDED 30 JUNE, 2022

PREAMBLE

I draw your attention to the contents of my report which is in three parts:

- A. Report on the Financial Statements that considers whether the financial statements are fairly presented in accordance with the applicable financial reporting framework, accounting standards and the relevant laws and regulations that have a direct effect on the financial statements.
- B. Report on Lawfulness and Effectiveness in Use of Public Resources which considers compliance with applicable laws, regulations, policies, gazette notices, circulars, guidelines and manuals and whether public resources are applied in a prudent, efficient, economic, transparent and accountable manner to ensure government achieves value for money and that such funds are applied for intended purpose.
- C. Report on Effectiveness of Internal Controls, Risk Management and Governance which considers how the entity has instituted checks and balances to guide internal operations. This responds to the effectiveness of the governance structure, the risk management environment and the internal controls, developed and implemented by those charged with governance for orderly, efficient and effective operations of the entity.

An unmodified opinion does not necessarily mean that an entity has complied with all relevant laws and regulations, and that its internal controls, risk management and governance systems are properly designed and were working effectively in the financial year under review.

The three parts of the report are aimed at addressing the statutory roles and responsibilities of the Auditor-General as provided by Article 229 of the Constitution, the Public Finance Management Act, 2012 and the Public Audit Act, 2015. The three parts of the report, when read together constitute the report of the Auditor-General.

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Government Constituencies Development Fund - Nyaribari Chache Constituency set out on pages 1 to 33, which comprise the statement of assets and liabilities as at 30 June, 2022, and the statement of receipts and payments, statement of cash flows and summary statement of appropriation for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of National Government Constituencies Development Fund – Nyaribari Chache Constituency as at 30 June, 2022, and of its financial

performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Cash Basis) and comply with the National Government Constituencies Development Fund Act, 2015.

Basis for Qualified Opinion

1.0 Unsupported Expenditure on Construction of a Tuition Block

The statement of receipts and payments reflect transfers to other government entities amounting to Kshs.87,895,305. As disclosed in Note 6 to the financial statements, the amount includes transfers to tertiary institutions amounting to Kshs.13,688,879 transferred to Ibeno Campus Project Management Committee (PMC) for the construction of Phase III of the proposed Kenya Medical Training College at the Campus. The contract for the project was awarded to a local company on 29 March, 2022 at a contract sum of Kshs.5,992,650, for a period of six months. No explanation was provided on why Management disbursed to the PMC Kshs.7,696,229 in excess of the contract sum.

In addition, interim certificates, inspection and acceptance committee reports indicating measured works prior to payments, project management committee project file, bank statements and reports indicating the progress of the project were not provided for audit review. Further, field verification on 22 March, 2023 revealed that the project was incomplete and the contractor was not on site despite Phase I and II of the project having been fully funded for respective contract sums of Kshs.8,464,346 and Kshs.17,838,287.

In the circumstances, the accuracy, completeness and validity of transfers amounting to Kshs.13,688,879 could not be confirmed.

2.0 Unsupported Security Project Expenditure

The statement of receipts and payments reflects other grants and transfers amounting to Kshs.92,547,538 which, as disclosed in Note 7 to the financial statements, includes expenditure on security projects of Kshs.36,400,000. Of the amount, Kshs.7,000,000 was disbursed for the construction one storey building, Phase 1 at Kiogoro Police Post. The works included construction of ground floor of the building to completion, comprising 10 rooms inclusive of waiting bay and 2 male cells, and 2 female cells with 2 flash toilets, each with one catering for people living with disability. However, Management did not provide a project management committee project file, interim payment certificates indicating the extent of work done and bank statements indicating how the funds were expended.

In the circumstances, the accuracy, completeness and validity of expenditure of Kshs,7,000,000 for the year ended 30 June, 2022 could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Government Constituencies Development Fund – Nyaribari Chache Constituency Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my Qualified Opinion.

Emphasis of Matter

Budgetary Control and Performance

The summary statement of appropriation reflects total budgeted receipts of Kshs.213,889,819 and actual on comparable basis of Kshs.203,889,819, resulting in underfunding of Kshs.10,000,000 or 5% of the budget. Similarly, the statement reflects expenditure budget of Kshs.213,889,819 and actual expenditure of Kshs.202,176,830, resulting in an under expenditure of Kshs.11,712,989, or 5% of the budget.

The underfunding affected the planned activities and may have impacted negatively on service delivery to the residents of Nyaribari Chache Constituency.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Unresolved Prior Year Audit Matters

In the audit report of the previous year, several matters were raised under the Report on Financial Statements and Report on Lawfulness and Effectiveness in Use of Public Resources. However, Management had not resolved nor disclosed the status of the prior year matters as prescribed in the reporting requirements set by the Public Sector Accounting Standards Board. Management has not provided satisfactory explanation for the delay in resolving the issue.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, I confirm that nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1.0 Irregular Procurement of Other Operating Expenses

The statements of receipts and payments reflects use of goods and services expenditure of Kshs.11,307,196 which includes other operating expenses of Kshs.1,650,000 as disclosed in Note 5 to the financial statements. However, the expenditure was not supported by quotations from prequalified suppliers for the goods and services contrary to the Section 95(3) of the Public Procurement and Asset Disposal Act, 2015, which requires a procuring entity to invite tenders from only the approved persons who have been pre-qualified.

In the circumstances, Management was in breach of the law.

2.0 Transfers to Other Government Units

The statement of receipts and payments reflects transfers to other Government units amounting to Kshs.87,895,305 as disclosed in Note 6 to the financial statements.

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Review of expenditure documents and physical inspection of projects implemented using the funds revealed the following anomalies:

2.1 Unlabeled Project

An amount of Kshs.41,045,982 was transferred to primary schools, out of which, Kshs.9,934,462 was paid to a local contractor for the construction of one storey building to completion at Ibeno Primary School. Audit verification at the school in the month of March, 2023 revealed that the project had been completed but was not labelled as required by Regulation 11(1)(cc) of the National Government Constituencies Development Fund Regulations, 2016, which states that the functions of a Constituency Committee is to ensure projects are labelled in accordance with the guidelines issued by the Board.

In the circumstances, Management was in breach of the law.

2.2 Purchase of a School Bus for Nyanchwa Girls Secondary School

Transfers to secondary schools amounting to Kshs.33,160,444 include Kshs.8,200,000 paid to a supplier for the purchase of a School Bus for Nyanchwa Girls Secondary School. However, the Management did not provide procurement documents for audit review.

In the circumstances, value for money of the expenditure of Kshs.8,200,000 could not be confirmed.

2.3 Unsatisfactory Implementation of Projects

The expenditure of Kshs.87,895,305 includes transfers to primary schools and secondary schools amounts of Kshs.41,045,982 and Kshs.33,160,444 respectively, totalling to Kshs.74,206,426 out of which, Kshs.12,500,000 was spent of various projects. However, field verifications carried out between 20 and 24 March, 2023 revealed several anomalies regarding implementation of projects as tabulated below:

School	Project Details	Amount (Kshs.)	Remarks
Kerera Central Primary School	Construction of two classrooms	1,200,000	The project was incomplete as plastering windowpanes, painting and labelling had not been done. Further, PMC returns, and bank statement were not provided for audit.
Kabwori Primary school	Construction of 3 roomed school administration block inclusive of waiting area	700,000	One classroom was constructed instead of three roomed school administration block inclusive of waiting area. Further, the project was incomplete. In addition, the PMC returns and bank statement were not provided for audit.
Amariba Secondary School -	Construction of a 40 capacity Laboratory	4,900,000	The laboratory was partly completed, was in use and branded. However, plastering of the outer wall had not been done.

School	Project Details	Amount (Kshs.)	Remarks
Kionganyo Milimani Primary School	Construction of classroom	600,000	The foundation was still at the lintel level. Further, PMC return were not provided for audit.
Nyabiosi Primary School	Construction of classroom and construction of pit latrine	900,000	The project was incomplete and PMC returns and bank statements were not provided for audit.
Nyangena DOK Primary School	Construction of 2 classrooms	1,200,000	The project was incomplete and PMC returns and bank statements were not provided for audit.
Our Lady of Victory Nyabiosi Secondary School	Completion of 55 capacity library on the 1 st floor	1,200,000	The project was incomplete and not in use. Further, records of project implementation were not provided for audit.
Rikendo Secondary School	Construction of 4 classrooms of a 1 storey structure	1,800,000	The project was incomplete and was not in use. Further, records of project implementation were not provided for audit.
Total		12,500,000	

In the circumstances, value for money of the expenditure of Kshs.12,500,000 could not be confirmed.

3.0 Other Grants and Transfers

The statement of receipts and payments reflects other grants and transfers of Kshs.92,547,538 as disclosed in Note 7 to the financial statements. Review of documents in respect of the expenditure revealed the following anomalies:

3.1 Lack of a Properly Constituted Bursary Sub-Committee

The expenditure of Kshs.92,547,538 includes bursaries transfer to secondary schools and tertiary institutions of Kshs.8,000,000 and Kshs.23,069,360 respectively, totalling to Kshs.31,069,360. However, the bursary Sub-Committee did not co-opt two members, one of whom must be the area education officer or representative of the of Ministry of Education, contrary to the Constituency Development Fund Board Circular dated 13 September, 2010, which requires formation of a Sub-Committee of Constituency Development Fund to manage the bursary scheme including two co-opted members, one of whom must be an Education Officer or an Officer seconded from the Ministry of Education.

In the circumstances, Management was in breach of the guidelines.

3.2 Implementation of Security Projects

A total of Kshs.36,400,000 was incurred in respect of security projects during the year. Review of records relating to the projects and field inspection in the in the month of March, 2023 revealed that projects implemented at a cost of Kshs.34,500,000 were incomplete and the respective contractors were not on site as detailed below:

- i. An amount of Kshs.12,500,000 was incurred in respect of phase two construction of two storey building at Kiogoro/Matunwa Assistant County Commissioner Office comprising 1st floor, substructure, framework, walling, doors and windows, windowpanes and general finishes (mechanical works - Plumbing, electrical works, painting and general finishes to completion at Kiogoro/Matunwa. Review of records and field inspection in the month of March, 2023 revealed that project was incomplete and the contractor was not on site.
- ii. The security projects expenditure of Kshs.36,400,000 include Kshs15,000,000 incurred in respect of construction of ground floor to completion at Keumbu Police Post comprising of thirteen (13) rooms inclusive of waiting bay, four (4) male cells and four (4) female cells with three (3) flash toilets each, Terrazzo tiling, plastering, windowpanes and electrical fittings, mechanical fittings (plumbing, septic tank, painting and general finishes) at Keumbu Police Post. Review of records and field inspection in March, 2023 revealed that project was incomplete and the contractor was not on site
- iii. An amount of Kshs.7,000,000 was transferred for construction of ground floor building at Kiogoro Police Post to completion comprising of 10 rooms inclusive of waiting bay and 2 male cells and 2 female cells with 2 flash toilets each with one catering for people living with disability at Kiogoro Police Post. Review of records and field inspection in the month of March, 2023 revealed that project was incomplete and the contractor was not on site.
- iv. Security projects expenditure of Kshs.36,400,00 includes Kshs.800,000 utilized for the construction of a four (4) roomed Assistant Chiefs office to completion at Kirwa Assistant Chief's premises. However, audit inspection on 34 March, 2023 revealed that the project was complete and labelled, but had not been put to the intended use.
- v. Expenditure of Kshs.600,000 was incurred for the construction of seven (7) rooms at Kegati Administration Police (AP) line. The works included flooring, plastering, doors, windows and windowpanes, electrical fittings and painting to completion. However, audit inspection on 34 March, 2023 revealed that flooring, plastering, windows panes, electrical fittings and painting had not been done and that the project was not serving its intended purpose.

In the circumstances, value for money of the above expenditures could not be confirmed.

4.0 Lack of a Complete Fixed Asset Register

Annex 4 to the financial statements on the summary of fixed asset register reflects a balance of Kshs.30,501,772 as at 30 June, 2022. However, Management did not maintain an assets register in support of the balance. This was contrary to Regulation 143(1) of the Public Finance Management (National Government) Regulations, 2015, which states that the Accounting Officer shall be responsible for maintaining a register of assets under his or her control or possession as prescribed by the relevant laws.

In the circumstances, Management was in breach of the law.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance about whether the activities, financial transactions and information reflected in the

financial statements are in compliance, in all material respects, with the authorities that govern them. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, I confirm that, nothing has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

The audit was conducted in accordance with ISSAI 2315 and ISSAI 2330. The standards require that I plan and perform the audit to obtain assurance about whether processes and systems of internal control, risk management and governance were operating effectively, in all material respects. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Cash Basis) and for maintaining effective internal controls as Management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error and for its assessment of the effectiveness of internal controls, risk management and overall governance.

In preparing the financial statements, Management is responsible for assessing the Fund's ability to continue to sustain its services, disclosing, as applicable, matters related to sustainability of services and using the applicable basis of accounting unless Management is aware of the intention to terminate the Fund or to cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Fund's financial reporting process, reviewing the effectiveness of how Management monitors compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion in accordance with the provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance audit is planned and performed to express a conclusion about whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities that govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal controls in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal controls would not necessarily disclose all matters in the internal controls that might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal controls components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the Fund's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional scepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.

- Conclude on the appropriateness of the Management’s use of applicable basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Fund’s ability to sustain its services. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor’s report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Fund to cease to sustain its services.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Fund to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence, and where applicable, related safeguards.



CPA Nancy Gathungu, CBS
AUDITOR-GENERAL

Nairobi

12 July, 2023